

United States District Court  
District of Massachusetts

Daniel E. Lafreniere, Plaintiff

Civil No.

vs.

United States of America, Defendant

04-40070

Complaint

PARTIES

1. The Plaintiff is a citizen of the United States of America and a resident of Springfield, Hampden County, Massachusetts. He is presently a commorant at Federal Medical Center, Devens Camp in Ayer, Middlesex County, Massachusetts, a correctional institution of the Bureau of Prisons of the Department of Justice.
2. The Defendant is the United States of America.

JURISDICTION

3. Jurisdiction is found under 28 U.S.C. § 1336(b)(1) and 28 U.S.C. § 2671-2680 (The Federal Tort Claims Act, hereafter the "FTCA")
4. Specifically as to jurisdiction, the claim in the Complaint arises out of the loss of property of the Plaintiff through the negligence or wrongful act or commission of an employee of the Government of the United States while the property was in the possession of a Federal agency of the United States. Upon information and belief, that agency was either or both of the Federal Bureau of Investigation (hereafter THE "FBI") or the Office of the United States Attorney for the District of Massachusetts. Upon information and belief, the property was not detained by a law enforcement officer such as to fall within the exception of 28 U.S.C. § 2680(c); but, if the property is claimed by the Defendant to have been so detained, jurisdiction is further founded under the exception to the exception of that section as it was (1) seized for the purpose of forfeiture under a provision of the Federal Law other than for a sentence imposed upon conviction of a criminal offence, (2) not forfeited, and (3) not remitted or mitigated, and (4) the Plaintiff was not convicted of a crime for which his ownership of the property was subject to forfeiture under a Federal criminal forfeiture law.

VENUE

5. Venue is founded under the provisions of 28 U.S.C. § 1402(b)

RECEIPT # 404316  
AMOUNT \$ 150.  
BY DPTY CLK S. J. M. 2  
DATE 5-5-04

**THE FACTS**

6. On April 11 and 12, 1996, agents of the **FBI** seized the Plaintiff's 95% completed motorcycle (hereafter the "Property") from his home at 36 Shadybrook Lane in Springfield, Massachusetts, together with other items, apparently pursuant to a search warrant.

7. On April 12, 1996, the **FBI** agents gave to the Plaintiff's wife a "Receipt for Property ... seized" which listed the Property as follows:

**"G-2 Motorcycle Frame # 1B91CC102R1334332"**

A copy of The Receipt is attached and marked **"EXHIBIT A "**

8. On October 24, 1997, the Plaintiff was indicted in The United States District Court for the District of Massachusetts for, among other charges, violations of 18 U.S.C. § 2312 (interstate transportation of stolen motor vehicles) and 18 U.S.C. § 2313 (possession and sale of stolen vehicles). The case was numbered CR.NO. 96-30016-MAP.

9. At the time of the trial an agent of the **FBI** testified that none of the items seized from the Plaintiff's premise on April 12, 1996, were illegal or stolen.

10. On November 5, 1998, the Plaintiff was found **not** guilty by a jury of charges under 18 U.S.C. § 2312 and 2313. He was convicted on one count of conspiracy in violation of 21 U.S.C. 9846, a charge unrelated to the Property.

11. On November 23, 1998, the Plaintiff filed a motion in CR.NO.96-30016-MAP for return of all items seized on April 11 and 12, including the Property.

12. On December 1, 1998, the Defendant opposed the return of "motorcycle parts" because **(A)** "Lafreniere can not legally possess motorcycle parts with obliterated or altered VIN numbers or parts that are stolen," citing Mass. GL Ch. 266 § 28 and 139 and **(B)** some of the items seized "may be introduced at a future trial" should the Plaintiff prevail on appeal of his conviction of the one count in the indictment on which he was convicted. The United States did not cite the testimony of the **FBI** agent referred to above that none of the items seized illegal or stolen or cite any evidence that the Property had been obliterated or altered VIN numbers, as it did **not** have such numbers. The United States agreed to return "other evidence."

13. On December 3, 1998, the Court denied the Plaintiff's motion in part, without prejudice; directed counsel to consult regarding items to be returned voluntarily; and authorized to the Plaintiff to file a further motion regarding other items.

14. On January 2, 2001, the Plaintiff's conviction on the one count in CR.NO. 96-30016-MAP was affirmed by the United States Court of Appeals for the First Circuit in **United States vs. Lafreniere, 236 F. 3d 41 (1st. Cir. 2001)**. The Plaintiff

did not petition for a Writ of Certiorari to the United States Supreme Court and the time for filing such a petition expired on or about March 3, 2001. The Plaintiff filed no motion for post conviction relief seeking a new trial.

15. On October 16, 2001, the Plaintiff filed pro se a Motion for Return of Seized Property citing his prior motion and the order of the Court of December 3, 1998 and included in the list of items sought to be returned, the Property described as it was in **Exhibit A** (The Receipt from the **FBI** with its VIN number) and further described it as follows:

"Motorcycle chassis (frame with front-end, rear wheel, engine, trans-all together 1B91CC102R1334332 (rolling chassis legal - being assembled in my garage)) I hold a mechanics lien against this motorcycle."

16. On October 19, 2001, The United States responded to the Plaintiff's Motion opposing the return of "motorcycle parts bearing evidence that they were stolen." Again The United States did not refer to the testimony of the **FBI** agent that none of the items seized were illegal or stolen.

17. On January 11, 15, and 16, 2002, the **FBI** agent (the same one who had testified that no items were stolen or illegal) returned several items which had been seized to the Plaintiff's brother as his agent but not the Property subject to this Complaint.

18. On January 31, 2002, The United States filed a Supplemental Response to the Plaintiff's Motion for return of Property advising the Court of the return of items on January 11, 15 and 16 and stated "The **FBI** is still seeking to locate ... one remaining item requested by the Defendant. The Government believes that [this item] will be located..."

19. On February 5, 2002, the Court took The Government's response of January 31, 2002 as a Motion to Modify its order of December 3, 1998 and allowed it, specifically stating that the Plaintiff may file an additional Motion "if the remaining [item] is not returned in a reasonable time."

20. On April 12, 2002, the Court issued an Order Re: Return of Property which described the Property as a "rolling chassis with various components" and ordered the Government to submit a report to the Court by May 10, 2002, documenting its position with regard to the [Plaintiff's] entitlement to [The Property.]

21. On May 16, 2002, the Government responded to the Court's Order of April 12, 2002 and stated that the **FBI** agent previously referred to in this Complaint "believes that all items have been returned to [Plaintiff's] representative except certain contraband motorcycle parts."

22. On September 9, 2002, the Government filed a further Report to the Court as directed by an Order of August 7, 2002 and quoted the **FBI** Agent as having "conducted a search for item G - 2 and cannot locate anything fitting the description of 'motorcycle frame' or 'rolling chassis'" and as believing that "no complete motorcycle" was taken from the Plaintiff's residence and that "any motorcycle would already have been returned to," the Plaintiff. The **FBI** Agent concluded:

"Absent an unexpected discovery in the material to be received from the [FBI] archives, it appears that the **FBI** does not have the complete motorcycle described by the [Plaintiff]. The [Plaintiff] may therefore be required to pursue the civil remedies available to him."

23. On September 23, 2002, the Government filed a "Final Report" to the Court repeating its previous conclusion after reviewing the **FBI** archives and stated:

"Unfortunately, it appears that the **FBI** does not have a complete motorcycle as described by the [Plaintiff]. The [Plaintiff] must therefore pursue, if he so chooses, the civil remedies available to him."

24. On October 2, 2002, the Deputy Clerk to the Court responded to the Plaintiff's letter disputing the **FBI**'s conclusion as to the seizure and location of the Property as follows:

"This long - completed criminal case is not the proper forum to resolve this through which you may obtain damages or some other relief..."

A complete copy of the Clerk's letter is attached as **Exhibit B**.

25. On or about June 30, 2003, the Plaintiff filed with the **FBI** an Administrative Claim for Damage pursuant to **FTCA** on Standard Form 95, with attachments. A copy of this Claim with a further description of the Property and two value quotations are attached on **Exhibit C**.

26. On November 21, 2003, the **FBI** acknowledged receipt of The Administrative Claim of August 29, 2003. A copy of this acknowledgement is attached as **Exhibit D**.

27. As of February 29, 2004, six months after August 29, 2003, the Plaintiff had received no further response from the **FBI**.

28. On or about March 10, 2004, the Plaintiff's Agent informed the Plaintiff that he had telephoned Ms. Geraldene McKevie-Thomas, the individual proposed in the November 21, 2003 letter from the **FBI** (**Exhibit D**) as the person to provide "any additional information or assistance concerning this matter" and that she had told the Plaintiff's Agent that the Plaintiff "could not sue the **FBI**" on account of this Claim, or words to that effect.

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION  
Receipt for Property Received/Returned/Released/Seized

EXHIBIT A

Page 1 of 2On (date) 4/13/96Time: 2 35 PM

item(s) listed below were:

Received From  
 Returned To  
 Released To  
 Seized

(Name) SEARCH OF RESIDENCE LOCATED AT(Street Address) 36 Shady Brook Lane(City) SPRINGFIELD MASS

Description of item(s):

LR-1 INSERT OF Photo ALBUM CONTAINING PHOTOSLR-2 PHOTOGRAPH OF MOTORCYCLELR-3 ANNUAL DIABLO PARTY CARDLR-4 GANG INTELLIGENCE REPORTLR-5 STRIP OF NEWSPAPER Bearing Telephone NUMBERMB-1 BLACK SUITCASE CONTAINING ASSORTED DIABLO MOTORCYCLE CLUB(DMC) documentsMB-2 Box containing ASSORTED JACKET COLORSMB-3 ASSORTED PHOTOGRAPHS AND 1988 PHOTO ALBUMMB-4 THREE FRAMED PICTURES / MOTHERS CLUB COLORSMB-5 DMC EMBLEM PARAPHERALIAMB-6 .45 CAL LONG RIFLE REPLICA ARMS (MAG UCR)MB-7 J STEVENS ARMS CO. SHOTGUN with one 12 gauge ROUND (MAG UCR)MB-8 DMC CORRESPONDENCEMB-9 DMC FINANCIAL RecordsMB-10 ASSORTED DMC RAG SHIRTSMB-11 THREE PHOTO ALBUMS + 2 Purchase AgreementsMB-12 MISCELLANEOUS DMC EMBLEMS BeltsMB-13 TIN CONTAINING OF A VEGETABLE LIKE SUBSTANCEMB-14 MORTGAGE / RESIDENCE OWNER / OWNERSHIP RecordsG-1 THREE(3) WOODEN BOXES CONTAINING PUNCHESG-2 MOTORCYCLE FRAME # 1B91CC102R1334332G-3 MOTORCYCLE FRAME - NO PRIMERG-4 MOTORCYCLE FRAME - GRAY PRIMER

Page 2 of 2On (date) 4/12/96Time: 2:30p

item(s) listed below were:

Received From  
 Returned To  
 Released To  
 Seized

(Name) SEARCH OF RESIDENCE LOCATED AT  
 (Street Address) 36 SHADY BROOK AVE  
 (City) SPRINGFIELD MASS

Description of  
Item(s):

G-6 NEWSPAPERS, PHOTOS LICENSE PLATE  
 G-7 PAPER BAG CONTAINING DENIM JACKET.  
 G-8 NEWSPAPERS, DENIM colors, WRAPPING PAPER  
 G-9 TITLES PHOTOS  
 G-10 DOUBLE BARRELL STEVENS Model 311 D SHOTGUN  
 G-11 STEVENS ANN 22 LONG RIFLE SINGLE SHOT Model 1915  
 G-12 SILE INC - NY 410 GAUGE DOUBLE BARREL SHOTGUN  
 G-13 SPORTSMAN Special 22 LONG RIFLES HIGH STANDARD  
 G-14 #96843 20 OR 16 gauge SHOTGUN.  
 G-15 TWO RIVET GUNS (RIGHT HAND TOOL CHEST) + BOX OF RIVETS  
 G-16 DMC MASS EMBLEM ON WOOD  
 G-17 SLATE MOTHERS MC CLUB EMBLEM  
 G-18 PLASTIC DRAWER WITH RIVETS  
 G-19 LARGE DMC PAPER POSTER  
 G-20 ASSORTED ENGINE COVERS / PARTS / SAMPLE SHEET METAL  
 G-21 MASS DFFD REGISTRATION PLATES - FOUR  
 G-22 DIABLOS MOTORCYCLE GAS TANK  
 G-23 METAL DFFD VANITY PLATE  
 G-24 DENIM DMC colors, PHOTO, CALENDAR SHEET.

NOTHING FOLLOWS

TONY ANASTAS  
CLERK OF COURTS

OFFICE OF THE CLERK  
UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
FEDERAL BUILDING & COURTHOUSE  
1550 MAIN ST.  
SPRINGFIELD, MASSACHUSETTS 01103  
TELEPHONE:  
(COMM) 413-785-0214  
(FAX) 413-785-0204

JOHN C. STUCKENBRUCK  
DEPUTY CLERK IN CHARGE

October 2, 2002

Daniel Lafreniere 90333-038  
FPC Devens Camp  
Box 879  
Ayer, MA 01432

Dear Mr. Lafreniere:

Judge Ponsor has asked me to respond to your letter of September 23, 2002.

The recent report from the Government and your letter have clarified the parties' respective positions regarding missing item G-2, a "rolling chassis." The Government states that it has no recollection of possessing such an item and certainly does not possess such an item now, despite a thorough search. Your position is that the Government did seize the item and is either knowingly withholding it, or negligently failing to locate it.

This long-completed criminal case is not the proper forum to resolve this factual dispute or to consider an appropriate remedy. Other legal avenues may exist through which you may obtain damages or some other relief. For now, the court can offer no further help through the informal process that has been followed based on the old criminal case and your letters requesting assistance. Judge Ponsor has asked me to convey to you his regret that this matter has not been resolved satisfactorily.

Very truly yours,

*Elizabeth A. French (af)*

Elizabeth A. French  
Deputy Clerk

cc: AUSA Levchuk

<b>CLAIM FOR DAMAGE, INJURY, OR DEATH</b>		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.			FORM APPROVED OMB NO. 1105-0008 EXPIRES 5-31-05
1. Submit To Appropriate Federal Agency: Federal Bureau of Investigation Department of Justice U.S. Federal Building 1550 Main Street Springfield, Mass. 01013		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) Daniel E. Lafreniere 90333-038 Devens Federal Medical Center Box 879 Ayer, Ma. 01432			
3. TYPE OF EMPLOYMENT <small>MILITARY CIVILIAN</small>	4. DATE OF BIRTH <small>10-20-48</small>	5. MARITAL STATUS <small>Married</small>	6. DATE AND DAY OF ACCIDENT <small>N/A None</small>	7. TIME (A.M. OR P.M.) <small>N/A None</small>	
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary)					
<p>On April 12, 1996 the Federal Bureau of Investigation seized property from my home at 36 Shady Brook Lane in Springfield, Ma. Among the items seized was a motorcycle under construction. See item G2 on attached copy of property removed from 36 Shady Brook Lane Springfield, Ma. on 4-12 96. On October 16, 2001 Judge Michael A. Ponsor granted my motion for return of the seized items and directed the F.B.I. to comply. Clifford Hedges, the representative for the Bureau in Spfld., in meetings with my representative has admitted that they cannot find, or have lost this motorcycle.</p>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side) Property consists of a motorcycle under construction which was 95% complete. See attached list of parts and description prepared by WILD-SIDE CYCLE + DN CYCLE SHOP dated May 9, 2003, and April 10, 2003 respectively. Value quotes (2) attached.					
10. PERSONAL INJURY/WRONFUL DEATH					
STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT					
NONE					
11. WITNESSES					
NAME		ADDRESS (Number, street, city, State, and Zip Code)			
12. (See instructions on reverse)					
12a. PROPERTY DAMAGE  \$16,000.00		12b. PERSONAL INJURY  NONE		12c. WRONGFUL DEATH  NONE	
12d. TOTAL (Failure to specify may cause forfeiture of your rights.)		\$16,000.00			
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side.)			13b. Phone number of signatory		14. DATE OF CLAIM June 30, 2003
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM  The claimant shall forfeit and pay to the United States the sum of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS  Imprisonment for not more than five years and shall be subject to a fine of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 18 U.S.C.A. 287.)		

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(c)(3), and concerns the information requested in the letter to which this Notice is attached.

**A. Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 29 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

### INSTRUCTIONS

**Complete all items – Insert the word NONE where applicable**

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF

Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item #1 on the reverse side. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplemental regulations also. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative. Provided evidence satisfactory to the Government is submitted with said claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item #12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or other aspect of this collection of information, including suggestions for reducing this burden,

to Director, Torts Branch  
Civil Division  
U.S. Department of Justice  
Washington, DC 20530

### INSURANCE COVERAGE

In order that subrogation claims be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

15. Do you carry accident insurance? Yes, if yes give name and address of insurance company (Number, street, city, State, and Zip Code) and policy number. No

NO

16. Have you filed claim on your insurance carrier in this instance, and if so, is it full coverage or deductible? 17. If deductible, state amount

18. If claim has been filed with your carrier, what action has your insurer taken or proposes to take with reference to your claim? (It is necessary that you ascertain these facts)

19. Do you carry public liability and property damage insurance? Yes, if yes, give name and address of insurance carrier (Number, street, city, State, and Zip Code) No

NO

Exhibit C  
LAWRENCE

# DN CYCLE SHOP

*Assorted New & Used Motorcycle Parts*

**MOTORCYCLES:  
BOUGHT - SOLD - TRADED**

**SALVAGE, VINTAGE &  
OBsolete PARTS**

**DAN NEGRI  
(203) 235-2047**



*Visa, Mastercard,  
Amex & Discover  
Accepted*

**473 W. Main St. - Rear  
Meriden, CT 06451**

## DN CYCLE SHOP

NAME David L. McNeely DATE OF ORDER 4-10-03  
 ADDRESS

423 Main Street, New  
 Haven, CT 06511

(203) 235-8647

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WSC

**WILDSIDE CYCLE**

689 PORTLAND-COBALT RD. ~ PORTLAND CONNECTICUT 06480 ~ USA  
Phone 860-342-1553 Fax 860-342-1553

May 09, 2003

Daniel Lafreniere,  
90333-038  
Box 879  
Ayer, Ma. 01432

"Quote"

Re: One 1965 FL Harley Davidson motorcycle

original 1966 swingarm frame uncut, unpacked complete with swing arm and rear shocks and fender struts,  
complete chromed wide glide front end with mechanical brakes (adjustable trees),  
complete front and rear wheels chromed with new tires, with brake drums front and rear working mechanical  
front, working hydraulic rear.

front and rear wide glide fenders.

original 1965 , five (5) gallon fuel tanks.

chrome oil tank with S.S. braided oil lines.

new wide solo seat.

chrome one piece Paco style muffler pipes slash cut.

mousetrap with cable wide glide headlight with chrome surrounding trim.  
toermstone tail light with glass lenses (original).

chrome master cylinder (rear) along with hydraulic brakelight switch.

toe and heel footshift complete with kickstand and chrome bracket.

3" Prime primary belt drive, also belt drive for rear wheel.

screw on oil filter and oil cooler.

12 volt generator and chromed regulator.

battery.

new complete 4 speed transmission assembly consisting of Delkron case, Andrews close ratio gear assembly  
consisting of gears shafts and bearings etc. and hydraulic clutch assembly, ratchet top cover, and kicker.  
transmission plate with adjuster.

speedo drive with cable, complete "cats eye" dash assembly with working speedo and ignition switch.  
complete black paint job consisting of basecoat / clearcoat with urethane clearcoat.

94" Panhead motor with Delkron generator cases, S.S. flywheels, rods, pistons, cylinders.

Branch heads with Manley S.S. valves, springs, titanium retainers.

Cal. custom finned aluminum pan covers, S.S. "E" carb and manifold, S.S. oil pump, Andrews "A" grind solid lifter  
cam with solid lifters and one piece adjustable push rods and chrome covers and retainers.

all necessary gears thrust washers etc. for timing aide, chromed non-finmed cam cover with new bushings.

all new engine bearings, shims etc., automatic advance chromed distributor, Accel coil and racket.

MATERIAL AND LABOR TO ASSEMBLE, FIT, AND PAINT ALL OF THE ABOVE 13,500.00

Exhibit D



## U.S. Department of Justice

Federal Bureau of Investigation

Office of the General Counsel

Washington, D.C. 20535

November 21, 2003

CERTIFIED-RETURN RECEIPT  
REQUESTED

Daniel E. LaFreniere #90333-038  
Devens Federal Medical Center  
P.O. Box 879  
Ayer, MA 01432

RE: ADMINISTRATIVE CLAIM OF DANIEL E. LAFRENIERE

Dear Mr. LaFreniere:

The Federal Bureau of Investigation (FBI) is in receipt of an administrative claim submitted by you relating to the return or reimbursement of property. Our office is in the process of reviewing this claim and it is our intention to process this claim as quickly as possible.

Pursuant to 28 CFR § 14.2, the FBI has six months from the date it receives an administrative claim to make a final determination. Your claim was received by our Boston Office on 8/29/2003.

If you require any additional information or assistance concerning this matter, you may contact Geraldine McEvie-Thomas, Civil Litigation Unit I, Office of the General Counsel at (202) 324-9654.

Sincerely,

Natalia Leons  
Chief, Civil Litigation Unit

*Ex-45 E*

Civil Litigation Unit I  
Office Of The General Council  
Federal Bureau Of Investigation  
J. Edgar Hoover Building  
935 Pennsylvania Ave. NW  
Washington, D.C. 20535-0001

March 17, 2004

Re: Administrative Claim Of  
Daniel E. Lafreniere Received  
By Boston Office 8-29-2003

Attention: Geraldine Mckevie-Thomas:

I am writing to you at the invitation of Natalia Leons in her letter to me dated November 21, 2003. My brother Larry Blackwolf, informs me that in a telephone conversation with you on or about March 10, 2004, you told him that I could not sue the Federal Bureau Of Investigation on account of the above claim. Would you please write me whether this statement was made by you or not.

If it was not, I request that you so state. If I do not hear from you by March 30, 2004, I will assume that you did make this statement and will make reference to it in the action I intend to bring under the Federal Torts Claims Act against the United States. Six months has expired since the date my claim was received.

*Daniel E. Lafreniere*

Sincerely: Daniel E. Lafreniere  
Reg. # 90333-038  
Devens Federal Medical Center  
P.O. Box 879 I-Unit  
Ayer, MA. 01432

*COPY*



Federal Bureau of Investigation

Office of the General Counsel

Washington, D.C. 20535

March 24, 2004

CERTIFIED RETURN RECEIPT  
REQUESTED

Daniel E. LaFreniere  
Devens Federal Medical Center  
P. O. Box 879  
Ayer, MA 01432

RE: ADMINISTRATIVE CLAIM OF DANIEL E. LAFRENIERE

Dear Mr. LaFreniere:

The Federal Bureau of Investigation (FBI) has received your Standard Form 95 (SF-95), Claim for Damage, Injury, or Death, submitted pursuant to the provisions of the Federal Tort Claims Act (FTCA), 28 United States Code (U.S.C.) § 2675(a).

Please be advised that we have reviewed the facts surrounding this matter. 28 U.S.C. § 2675(a) provides for the payment of claims arising out of the negligent or wrongful acts of a Federal employee while acting within the scope of their employment. Our review indicated that there was no negligence or wrongful conduct by an FBI employee in this case. The FBI has concluded that the claim is not actionable under the FTCA, therefore, your administrative claim is denied.

Please be advised that Title 28 C.F.R., § 14.9(a), requires us to inform you that, if you are dissatisfied with this determination, you may file a lawsuit against the United States in an appropriate United States District Court. The lawsuit, however, cannot be filed any later than six months from the date of this notification of denial.

Sincerely,

*Natalia Leons*  
Natalia Leons  
Chief, Civil Litigation Unit

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

04-40070

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) DANIEL E LAFRENIER vs.  
United States of America

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

N/A

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES

NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES

NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES

NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES

NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES

NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

(PLEASE TYPE OR PRINT)  
ATTORNEY'S NAME DANIEL E LAFRENIER, PRO SEADDRESS REG. #0-90333-638TELEPHONE NO. FEDERAL MEDICAL CENTER, DURHAMH/A P.O. BOX 879 - DURHAM(Cover sheet local.wpd - 11/27/00) AY62, dkt 04-32

## CIVIL COVER SHEET 40070

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

DANIEL E LAFRENIERE

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF HAMPDEN  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
PRO SE

## DEFENDANTS

UNITED STATES OF AMERICA

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT VA

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

## II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff  
 2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)  
 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

PTF	DEF	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6
Citizen of This State		Incorporated or Principal Place of Business In This State	
Citizen of Another State		Incorporated and Principal Place of Business In Another State	
Citizen or Subject of a Foreign Country		Foreign Nation	

## IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened

Transferred from  
 5 another district (specify)

6 Multidistrict Litigation

Appeal to District Judge from  
 7 Magistrate Judgment

## V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth In Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 620 Copyrights <input type="checkbox"/> 630 Patent <input type="checkbox"/> 640 Trademark <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 760 Other Labor Litigation <b>SOCIAL SECURITY</b> <input type="checkbox"/> 881 HIA (1395ff) <input type="checkbox"/> 882 Black Lung (923) <input type="checkbox"/> 883 DWIC/DIWV (405(g)) <input type="checkbox"/> 884 SSDI Title XVI <input type="checkbox"/> 885 RSI (405(g))
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 446 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7809
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<b>PRISONER PETITIONS</b>		<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions

## VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE  
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

CIVIL ACTION FOR LOSS OF PROPERTY OWNED FELONIC TORT CLAIMS ACT  
18 U.S.C. § 2671-2680 AND 18 U.S.C. § 1346 (FELONIC PROPERTY)

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
 UNDER F.R.C.P. 23

DEMAND \$16,000

CHECK YES only if demanded in complaint:

JURY DEMAND:  YES  NOVIII. RELATED CASE(S) (See Instructions):  
IF ANY

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

SIGNATURE OF ATTORNEY OF RECORD: DANIEL E. LAFRENIERE

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